MRRIC <u>Draft</u> Situation Assessment and Monitoring Meeting Meeting Notes Army Corps of Engineers Omaha, NE February 28, 2006 8:30 to 2:30

Meeting Attendees

For a complete list of meeting attendees, please see Appendix A.

Opening

Col. Bedey, Commander and District Engineer of the U.S. Army Corps of Engineers (COE), Omaha District opened the session. He said that he was looking forward to hearing the Draft Situation Assessment Report and having reports made on the COE's initiatives to conduct monitoring on a variety of components of a possible Spring Rise. He noted that water available to conduct the rise was very close to the cut-off threshold and that a decision on whether it would be conducted would be made on March 1st.

Chris Moore, Partner of CDR Associates reviewed the proposed agenda (see Appendix B), and gained approval of the group to reorder the sequence of presentations for the afternoon session.

Presentation of the Draft Situation Assessment Report on the Feasibility and Convening of a Missouri River Recovery Implementation Committee (MRRIC)

SITUATION ASSESSMENT REPORT ON THE FEASIBILITY AND CONVENING OF A MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE

Prepared by CDR Associates February 28, 2006



Goals of any Situation Assessment

- > To Identify
 - . Topics most important to stakeholders
 - Stakeholders' interests, concerns, perspectives on topics
 - Stakeholders who might participate in dialogue
 - Possible structures for a dialogue
 - Other information to assist decision makers in deciding whether/how to proceed with a dialogue

Preparing the Report (page 4-7)

- > The CDR Team (Appendix I)
- > The interviews (Appendix V), interview questions (Appendix IV)
- The Situation Assessment Advisory Group's Role (Appendix III)
- > Preparing this draft
- > Research, other models (Appendix VI)

Focus, Scope and Mandate of MRRIC (pages 7-11)

- From broad to narrow, frequently mentioned areas are
 - Focus on the general health of the river—the ecosystem
 - Focus on the recovery of threatened and endangered species
 - Focus on all species—listed or likely to be listed at some time
 - Focus on protecting and balancing the uses of the river—which will then result in protection of species

Draft Statement of Goals for Consideration (page 10)

- Broadly representative committee focusing on ESA issues
- Listening & learning from each other to make consensus recommendations to Federal agencies
- Using Adaptive Management principles
- > Preventing other species from being listed
- Respecting other uses, maximizing benefits and minimizing adverse impacts, using ecosystem enhancement as a basis to enhance broader economic and social revitalization

Authority of MRRIC

- MRRIC would have advisory authority to make recommendations to the Army Corps of Engineers (COE) and/or jointly to the COE and the U.S. Fish and Wildlife Service (USFWS) (pages 11-13)
- It may also advise
 - The US Environmental Protection Agency (USEPA), US Bureau of Reclamation (USBOR), US Park Service (USPS), Western Area Power Administration (WAPA) and other Federal agencies
 - . Tribes and States as appropriate

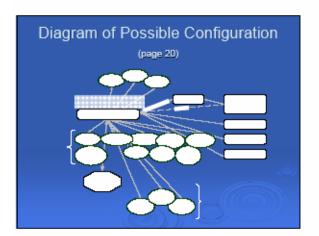
Authority of MRRIC

- > While MRRIC would have only advisory authority, its consensus recommendations would carry special weight with concerned agencies
- > The COE and USBOR would be implementing agencies

Structural Components of MRRIC

(pages 13-20)

- > Plenary Committee (similar in design to Spring Rise Plenary)
- > Technical Committees and diverse kinds of Working Groups (whose members may not all be members of the Plenary Committee)
- > Stakeholder Caucuses (whose members also may not all be members of the Plenary Committee)
- Consider Executive Committee and/or Executive Secretary or Chairperson
- Facilitators



Membership on Plenary (pages 20-28)

- > Broad categories essential (Appendix VII)
- > Upstream/Downstream, State/Tribal/Federal and non-Governmental balance necessary (page 23)
- > Desirable characteristics of members (page 24) and consistency requirements
- Levels of authority of members (page 25)

Process for Selection (pages 28-29)

- > Selection can be enhanced and accomplished by:
 - Generally agreed upon principles (page 28)
 - . Appointment by government officials or agencies
 - Selection by stakeholder interest group, or by a "Selection and Planning Committee?" (page 29) whose initial members are selected by stakeholders or and independent entity

MRRIC Decision Making Process (pages 29-32)

MRRIC should:

- Strive for consensus because of the power of that process and political/technical difficulties of other procedures (page 30)

 > Develop specific "fall back" processes if consensus is not possible (page 31)
- Consider the appropriate role of Federal agencies in deliberations and decision making —providing technical assistance, parameters for consideration and reality testing, involvement in deliberations, and role in decisions on recommendations (page 32)

Interagency and Intergovernmental Involvement with MRRIC (pages 33-35)

- MoRAST and MRRIC Separate but close coordination, and need to clarify roles
- MRB Federal Agency Roundtable Role— Separate but with coordination, and need to clarify agency commitments, roles and responsibilities, decision making and costsharing
- Tribal Role—Tribal caucus or intertribal coordination group

ISSUES (pages 35-38)

- > Broad range listed—from water allocation to monitoring
- > Many issues highly political and emotional
- Good, compelling, defensible science critical to effective decision making

Good Data, Good Science (pages 38-42)

MRRIC will need a process to:

- > Identify data needs
- Identify data gaps
- Address and mitigate dynamics/politics effecting data and its credibility
- Determine and implement jointly acceptable processes for data collection, setting research priorities, analysis/interpretation of information and resolution of data disputes that will allow MRRIC to move forward, make recommendations not have them challenged and have them implemented?

Funding—Key Issues (page 43)

- Consistency and predictability of long-term funding
- > Federal government or Congressional responsibility
- Need for reimbursement of non-agency, non-industry participants' expenses on an as needed basis

Trust Building (page 44)

- Development of trust is one of the most frequently mentioned goals and measurements of success
- > Requires listening, work to understand others
- > Consistent enforcement of protocols essential
- > Charter and protocols must be clear, specific
- Overall expectations include checking out assumptions, not attributing motives, negotiating in good faith

Protocols, Guidelines and Groundrules (page 45)

- Proposed additions to Spring Rise protocols include:
 - Need for whole group commitment to standards for behavior outside of meetings.
 - Relationships, liaison with press must be spelled out
 - Being respectful does not preclude disagreement
 - Monitoring and enforcement procedures
 - . Ways to address concerns about facilitation

Federal Advisory Committee Act (FACA) (page 44-45)

- > Implications for
 - Definition of MRRIC mandate, goals
 - Selection of members
 - Public input
 - Decision making process and authority
- Federal agencies must make this decision, with the assistance of the US Institute for Environmental Conflict Resolution

Possible Timeline (page 48)

- February 28—Presentation of draft Situation Assessment Report in Omaha
- February 28-March 10—Public comment on Report
- March 13-17—Revision to draft
- > March 17-Release of final Report
- March 20-24—Agencies meet to decide on next steps

CDR Team Recommendations (Appendix VIII, page 68-72)

MRRIC participants must make decisions regarding the operations of this process. What follows are thoughts, ideas, suggestions and recommendations based on discussions with stakeholders; and "best practices" gleaned from other processes and the experience of GDR Associates.

Mandate: Working under the ESA on species recovery efforts can provide an effective umbrella for both specific and broader "health of the basin" initiatives. We suggest that the primary goals MRRIC should be ecosystem level initiatives to recover species, enhancement of benefits to other uses, and balance and mitigation of impacts on authorized uses.

CDR Team Recommendations (Appendix VIII, page 68-72)

- Accountability, Reporting and Authority: MRRIC should report directly to the agencies responsible for implementation of ESA recovery actions at a minimum, the COE/USFWS. MRRIC is an advisory body mandated to develop recommendations, It does not have final decision making authority. This rests with Federal agencies.
- Agency Commitments: Agencies should make a public commitment to seriously consider approval and implementation of consensus recommendations made by MRRIC, and report back to the Committee with any reasons why they cannot do so.

CDR Team Recommendations (Appendix VIII, page 68-72)

- Size & Composition of MRRIC: The MRRIC Plenary Committee should be large enough to reflect the diversity of views of stakeholders in the basin, and small enough to make decisions. The Plenary Committee should consider how it can delegate authority and work on recommendations to various kinds of subcommittees.
- Characteristics of Members and Levels of Authority: Members of, MRRIC should have all or most of the characteristics identified in the report, and have the authority to speak for their organizations, either as leaders or as appointed by their leaders.

CDR Team Recommendations (Appendix VIII, page 68-72)

- Federal Agency Participation A decision needs to be made regarding the appropriate role(s) of Federal agencies in MRRIC's deliberations and decision making on recommendations. Agencies may play different roles on different issues. These decisions may be made unilaterally by agencies, or through discussions with other MRRIC members.
- Selection of members: A fair and transparent process will need to be agreed upon for the selection of members of MRRIC. The two possible approaches have been identified and should be considered. Assistance of an impartial third party may be needed to implement either of them.

CDR Team Recommendations (Appendix VIII, page 68-72)

- <u>Decision Making:</u> Decision making should be by consensus, but clear back-up measures should be in place if a united judgment cannot be reached.
- Science and Data: MRRIC must focus on and reach mutually acceptable agreements on how the range of data issues identified by stakeholders will be addressed. Decisions on how to handle these issues should be one of its first orders of business for the Committee.
- Federal Agency Coordination: Federal agencies should work together to develop a joint MOA concerning their working relationships, roles and responsibility, internal communications, decision making and funding.

CDR Team Recommendations (Appendix VIII, page 68-72)

- <u>Tribal Participation</u> Tribal participation is important. Even if each tribe is not present at all meetings, key participants should keep all tribal members informed about MRRIC activities
- Coordination and Involvement of Governmental <u>Agencies</u>: MRRIC must closely coordinate with the MRB Federal Agency Roundtable, MoRAST and other existing groups, while maintaining its independence.
- Trust: MRRIC needs to develop a charter and protocol to which every member can subscribe and support. The protocol must contain feedback mechanisms and clear enforcement processes. The presence of these documents and procedures will help lay the groundwork for the trust that is essential for the process to work.

CDR Team Recommendations (Appendix VIII, page 68-72)

- Cooperative Participation: Members of MRRIC should commit to honest discussion of values and interests, support the process both inside and outside of meetings and seek solutions that will achieve the mandate, maximize benefits to all parties and mitigate impacts.
- Timely Implementation: Federal agencies should make requisite decisions in a timely manner to assure that MRRIC can be convened at the earliest possible date.

Chris Moore and Mary Margaret Golten, two Partners of CDR Associates and co-leads of the Situation Assessment team, presented the Draft Situation Assessment Report for the Team (Moore, Golten, Joe McMahon, Leigh Price and Matt McKinney). They made a power point presentation that outlined their findings and recommendations. The text of the presentation is included below. The full report can be found online at http://missouririver.ecr.gov

Moore and Golten stressed that this report was a draft, and that interviewees and other concerned parties will have an opportunity for input on its content and recommendations. Input can be given both at this meeting and by e-mail on the web site of the U.S. Institute for Environmental Conflict Resolution (the Institute or USIECR). The Institute's web site address is: http://missouririver.ecr.gov.

Discussion and Input following CDR Associates' Presentation

Following the presentation by the CDR Team, the meeting was opened for comments, recommendations, and questions and answers from participants. Listed below are comments and responses of individual participants and the CDR Team. Where there were agreements by the group, they are noted in bold typeface and underlined.

What is the scope and mandate of MRRIC?

- ♦ We need to know what are the "rules" of the process? What can MRRIC affect? We need sideboards upfront so can figure out appropriate representation. Over which areas will MRRIC have influence?
- MRRIC may be limited within sideboards established by Federal agencies, but effective solutions may lie outside of these sideboards. Don't restrict MRRIC from recommending recovery solution recommendations, regardless of Federal sideboards.
- Sideboards should be the "the Basin"; mission is to recover species, while considering stakeholders' concerns.
- ◆ Include language in the mandate or focus of MRRIC from the BiOp and/or Recovery Plan. These describe what is mandated. Should ask USFWS to review and clarify.
- ◆ We need a definition of "recovery" so we can decide where to start and where to stop?
- We need to balance competing needs within statutory authorities and minimize and mitigate impacts.
- ◆ ESA and socioeconomic issues and impacts extend beyond the Missouri River basin. We need to expand to address this fact in the Situation Assessment of Recovery Plans and Teams beyond the Basin (e.g., including Mississippi). We need to understand we are not operating in a "vacuum"; and understand additional outside political, socioeconomic, biological dynamics and impacts, e.g., critical habitat actions for plovers outside the Basin affect their recovery. We also need to understand Pallid Sturgeon recovery issues outside Basin, and in tributaries.
- What is "scope of accountability" within the Basin?

- We need to define "cultural resource" responsibilities of MRRIC within Basin.
- ♦ ESA issues are "national" in scope. We need to look at overall national recovery issues for Threatened & Endangered species.
- ♦ We need to look at recovery of species holistically, and include the entire range of actions being taken.
- MRRIC should think broadly, but focus on certain specific tasks to be effective for ESA recovery.
- Do we need to clarify whether bigger picture issues need to be addressed by MoRAST and others, because of limited funding for MRRIC and implementation of Adaptive Management?
- Scope of MRRIC is limited to management actions on the Missouri River, but we need to coordinate relationships with other ESA activities and efforts on Mississippi, etc.
- Other activities are not MRRIC's responsibility, but the Federal government's responsibility.
- ◆ Don't use up MRRIC brain trust to address out-of-Basin connections. That's the Federal government's responsibility to do, and in a transparent manner. We need to make best strategic use of available funding and resources dedicated to the Missouri River Basin.
- Remember our charge to "do no harm," to minimize adverse impacts.

The Process for MRRIC

◆ Food for thought for nongovernmental stakeholders - We need to get stakeholders involved in managing this river; need to make MRRIC what you want it to be. We would like to see more thinking about how stakeholders will be more in charge of (take responsibility for) what happens on the Missouri River. What can stakeholders accomplish through MRRIC? Will they be listened to? What is the role of stakeholders in decision-making on the river? Who is willing to take on that responsibility?

- ◆ A key goal of MRRIC must be to enhance communication among all stakeholders within Basin.
- Protocols and charter should be crafted by members of MRRIC. The charter must then be explicitly accepted by participating Federal agencies.

Specific Issues to be Addressed

- ♦ Degradations and problems (water intakes, sedimentation, tribal, and hydro concerns) all must be addressed.
- Need MRRIC to provide advice on Spring Rise changes to Master Manual. Federal government should slow down and MRRIC should speed up to ensure there are opportunities for advice on Master Manual changes.

FACA

- If sideboards are "Basin", then we may not be able to avoid FACA.
- ♦ There may be limits on what advice nongovernmental stakeholders can provide Federal agencies without requiring FACA. There are Bureaucratic headaches associated with FACA. If convened under ESA FACA exemption, are we limited to recovery implementation? Broader mandate might require FACA or special legislation, i.e., WRDA.
- ◆ Don't let FACA considerations drive what MRRIC is. Make sure MRRIC is what you want it to be, regardless of FACA concerns.

Process for Input

♦ Is this meeting the only opportunity for collaboration with stakeholders until MRRIC is actually convened? Stakeholders will have input at this meeting and via the Institute's web site.

Timeline for MRRIC

• Don't be stampeded into forming MRRIC. Carefully consider what it needs to be. (Slow down process to change Master Manual.)

- Don't want Federal agencies to slow down on recovery efforts or forming MRRIC.
 Want MRRIC to speed up so can have input to Federal decisions.
- Notwithstanding urges to slow down formation process for MRRIC, Federal government can't call "timeout." Congress has obligated money for FY06. Without moving forward quickly, it would be up to Federal agencies to make expenditure decisions. (Col. Bedey)
- Resources available are the funding appropriated to COE for the Basin in FY06 (\$56.4M); without stakeholder involvement soon, Federal agencies will have to make decisions.

Drafting Committee to develop Charter to present to MRRIC once it is formed

- Could use broadly representative "drafting committee" to prepare proposals for larger group to consider and ratify. Learn and use what's good from other large river restoration efforts.
- ◆ A suggestion was made to form a "drafting committee" after the public comment period has closed but before MRRIC is convened. Takes pressure off facilitators. Challenge would be identifying a small group of trusted people to be on a Drafting Committee. Concern that CDR's future effectiveness could be affected based on their recommendations and how they are received by stakeholders. Having a committee review language beforehand will help avoid some of these tensions. How and who would select Drafting Committee before MRRIC is formed (to develop scope of MRRIC, protocols, etc.)?
- CDR's initial proposal is that scope and protocols be determined by MRRIC, once it has been formed. MRRIC could, however, benefit from a draft which was prepared in advance by a drafting committee.
- ◆ This group, a drafting committee, could be similar to the Core Planning Group that was used to convene the Spring Rise facilitation. That body was temporary, and had a defined scope of work and period of operation. Work products could be presented to MRRIC once it is convened for its consideration and approval.
- May be faster in the long run to have group of trusted colleagues draft charter and protocol for consideration by MRRIC once it is selected and convened.
- Dilemma is that there is not a group in place to select a Drafting Committee.

- Important to keep drafting task separate from task of selecting MRRIC members. Separate protocol drafting group from MRRIC member selection decisions.
- Who might like to be on proposed Drafting Committee for charter/scope/mandate and protocols? (Caucus was held to identify membership.)
- ◆ Agreement on the creation of a Drafting Committee to work on Charter, Protocol etc. Membership: Rebecca Kidder, Bill Lay, Dawnette Owens, Lynn Muench, Margot Zallen, Jim Peterson, Wayne Nelson-Stastny, Tom Graves, Joel Ames, John Seeronen. Mandate: Will not have decision-making authority, but will draft proposal for consideration by MRRIC. Group will need to review all comments submitted to CDR, look at other recovery efforts, have legal expertise to examine FACA issues, etc.

Timeframe for Public Input, Final Report, and establishment of MRRIC

- ◆ This group today could make decision regarding time period for pubic comment on the Situation Assessment report. People need a month to review and consult with their constituencies. Is it acceptable to extend the time period for comments to March 31, 2006? <u>Agreement: Time period for public comment on the Draft</u> <u>Situation Assessment Report will be extended until March 31, 2006</u>)
- USIECR will receive comments until the end of March. Then CDR will take 7 days to incorporate comments and prepare a Final Situation Assessment Report.
- Report is independent assessment by CDR, based on input received from stakeholders. All comments received during the public comment period will be considered and forwarded to Federal agencies. CDR does not make ultimate decisions on the recommendations in the report. Federal agencies will make final decisions. Public comments received will influence CDR's final Situation Assessment report, especially where there is commonality of views.

Composition of MRRIC and Member Selection Process

• The question is "how big"? Generally people suggested approximately 50, like Spring Rise process. Other models? Usually 1-2 representatives per governmental entity. More governmental entities in Missouri River basin than other processes.

- ◆ The major questions: Categories of representation? Who makes decision about categories? What are allocations among available slots? Who makes decision? Federal agencies feel it is not their responsibility to decide. The US Institute? An association of state governments and Tribes (MoRAST), to decide on categories and number of slots for each category?
- ◆ The US Institute or facilitators should not make final selection decisions, but could they make recommendation to group that does make decision? What is the group who would like to be on MRRIC? Could just invite people and see who is interested. Could be decision by attrition – who doesn't want to accept invitation to participate? Could take recommendations from each group about how they would like to participate and then provide to final selection decision-makers.
- Suggestion that there is no problem with stakeholders deciding how they will be represented. However, states have regulatory responsibility (e.g., fish & wildlife management) to participate on MRRIC.
- Suggestion that there is no need for Federal agency slots on MRRIC because MRRIC
 is to provide advice to Federal agencies. (Agencies should participate in MRRIC, but
 not be involved in decision making.)
- COE doesn't care how MRRIC is composed, as long as it has an entity to receive advice from on its recovery and restoration decisions.

Selection and Appointment of Federal Agency Members of MRRIC

 Federal agencies: Agencies will appoint their members to MRRIC. Do they need 1 or 2 representatives per agency? Could they accept one and an alternate? <u>Agreement:</u> <u>Federal agencies will have one representative per agency and one alternate per agency.</u>

Selection and Appointment of Tribal Members of MRRIC

- ♦ 28 Tribes have requested representation. Each Tribe a sovereign nation. Each Tribe will appoint their members for MRRIC.
- ♦ If tribal numbers increase, then non-governmental stakeholders also want increased numbers.

Selection and Appointment of State Members of MRRIC

◆ States: Each state will appoint their members to MRRIC. 2-3 representatives? States have multiple interests, especially water and fish & wildlife. States represent broader populations. Agreement: States agree to 2 representatives per state - KS, ND, SD, MO, NE, IA, MT, WY.

Selection and Appointment of Non-governmental Stakeholder Members of MRRIC

- Most meeting participants understand that Federal agencies, states, and Tribes will be on MRRIC, but how will non-governmental stakeholder interests be represented?
- Some stakeholders have multiple interests. For example, tribes are concerned about burial sites, water intakes, raising cattle, etc. Some stakeholders do not want to be limited to represent a single interest.
- ◆ Could 28 Tribes and 8 states come together as a group to decide on composition and selection of non-governmental members of MRRIC? Nongovernmental entities could make recommendations to this tribal/state group regarding representation to achieve total size of ~ 50 people for MRRIC.
- Corn growers don't understand how decisions are made about who is "on and off the island". They feel that they are the ones who will be affected by the decisions. They don't feel that they are involved in selection process; they feel left out. MRRIC convening process to date has not been transparent, from their standpoint.
- ◆ Could a Coordinating Group composed of stakeholders help agencies to select and convene MRRIC?
- ◆ Federal agencies will ultimately need to make decisions about composition and selection of MRRIC and FACA issues, based on assessment report and feedback received.
- ♦ COE has been responsible for bringing groups together to date. Could ask COE to determine categories and number of slots, then let stakeholders caucus and decide who will represent them.
- ◆ To balance state representation with stakeholder interests, could have 5 representatives per state 2 for state agencies and 3 for nongovernmental stakeholders; governors would appoint all states' representatives.

- Another alternative is for each stakeholder group to make their own selection decisions, but first they would need agreement on categories of interests to be represented and number of slots. Interest groups could meet as caucus and make either direct selection decisions or submit nominations to a Selection Group/Committee.
- Do non-governmental stakeholders want to make decision on categories and number of slots, or want some other independent entity to do this? The group expressed a desire for a stakeholder process.
- Suggestion that if NGOs select their representatives, it should be done by state, not basin-wide.
- Participation could be influenced, in part, by location of meetings.
- Consider using the Core Planning Group process used during Spring Rise. Request nominations from stakeholders for Core Planning Group. Stakeholders then caucus and submit nominations and letters of support to Institute. Core Planning Group then makes decisions regarding categories and slots and selection of members.
- What if participants at selection meeting want to appoint themselves?
- Effective transparency of process may help alleviate concerns about membership.
- ◆ Summary of brainstormed options for determining categories of interest and number of slots: a) US Institute decides; b) further consultation by CDR with stakeholders to determine categories and then stakeholder caucuses make their own selection decisions based on number of allocated slots; c) further consultation with stakeholders on categories and number of slots and then another meeting to vote on/decide ultimate membership selection; d) apportionment of slots based on congressional districts; e) determine NGO representation based on who has participated to date − no need for additional elaborate selection process; f) COE to determine categories and number of slots, followed by stakeholders caucus to select their own representatives; g) invite all NGOs to another meeting facilitated by CDR and have the group decide their own representatives; h) put out invitation for MRRIC membership and let them meet and decide how to fill designated number of slots.
- Agreement: Need polling mechanism to gather feedback on proposed options.

- ♦ Agreement: CDR will take a poll regarding stakeholders groups, categories and numbers of allocated slots. Also poll on final selection decision process. (Include cattlemen, water supply, sedimentation, corn growers in poll.)
- ♦ CDR will send out additional questions to see if there is any consensus on how to handle selection process. If no consensus, then will need some kind of additional stakeholder process to decide.
- ♦ Some stakeholder groups were missed and not invited to Spring Rise, e.g., cattlemen. States should identify any missing interests. Stakeholders and states are asked to send information on any additional groups who were missed to CDR.
- Stakeholders and states should let CDR know if NGOs are not listed in Appendix of Situation Assessment Report.

Decision Making Process for MRRIC

- ♦ Does consensus-based process help alleviate concerns about numbers of assigned slots? <u>Agreement: There was strong support for consensus-based decision making process for MRRIC.</u>
- If MRRIC can't reach consensus, could Minority Report be used? In the NE Water Policy Task Force, no minority reports were issued. Instead, addendum section on "further issues to be discussed" was written by individuals or caucus.
- Suggestion was made that MRRIC use Plurality Reports that doesn't count numbers, but captures all distinct perspectives. Either can be an alternative if consensus is not possible.

Advice to the COE

- There is a need for a quick way to provide advice to COE on allocation of money for FY06 projects, but MRRIC may not be up and running in time to do this in FY06.
- ◆ Pallid Sturgeon Working Group is up and running. It would be prepared to make recommendations to COE on project funding decisions for FY06 interim until MRRIC is operational.

Funding to Support Member Participation

 NGOs need to know funding support is available to assist with travel expenses, before agreeing to participate.

Pros & Cons re: FACA vs. ESA Committee

Initial presentation made by John Seeronen, COE, with additional input from Margot Zallen, DOI.

- If non Federal participants in an advisory process, then FACA applies with certain procedural steps and operational requirements.
- With FACA, Secretary of DOD, or Interior, or President selects members.
- ◆ ESA exception to FACA (Section 4 of ESA) applies if implementing recovery plans for a listed species. (Doesn't have to be whole plan, could be just for Missouri River.) USFWS has authority to directly appoint Recovery Team that is exempt from FACA. Federal agency attorneys could lay out pros and cons of FACA or ESA-convened process and let proposed Drafting Committee consider and decide which way to go. Suggestion that group should not let FACA requirements decide structure and process; only if it fits your needs. In other similar processes, stakeholders have selected their own representatives to a Recovery Implementation Team.
- Process would be FACA-exempt if membership is only Federal, state, and Tribes (i.e., nongovernmental representatives).
- ◆ If dispute between USFWS and Tribes, whose side would DOI Solicitor have to represent? Need to review relevant laws and then represent Secretary of DOI. What about addressing tribal trust responsibilities? (This was not discussed.)
- Since the Recovery efforts are congressionally authorized project, can MRRIC lobby Congress? (No.)

Additional Comments on Content of the Report

♦ Make sure Executive Summary minimizes "MRRIC" and other acronyms because that may be all that media and public reviews. Spell out titles, etc.

General discussion

- Request was made to have a court reporter provided to document these historical proceedings of MRRIC meetings.
- Request to put information from this meeting into e-mails that are sent to decision-makers and broader public. Note: Meeting notes will be posted on the Institute'
- Important to have transparency by Federal agencies in setting up MRRIC
- Some thought next meeting would be actual convening of MRRIC. How to keep stakeholders involved as convening decisions re: MRRIC are being made?
- Need to know status of Interagency discussions and Agreements re: Recovery.
- Federal agencies need to work some issues out among themselves and document them in MOUs. These need to be shared publicly. Could be taking place now.

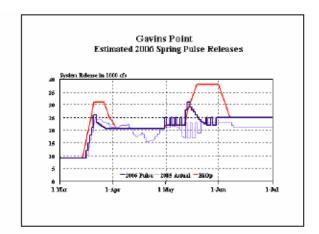
Proposed Monitoring Plans for a Spring Rise on the Missouri River Army Corps of Engineers February 28, 2006 3:00 to 4:30

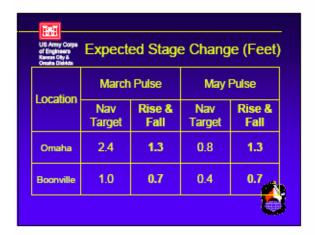
Current Hydrological Conditions (Larry Murphy)—Presentation will be provided at a later date.

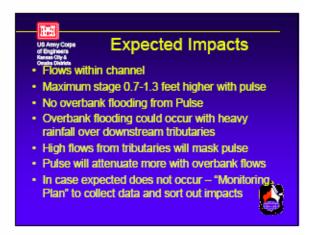
Monitoring and Evaluation Program (Matt Kratjewsky) — Presentation will be provided at a later date.

Report and Discussion of Proposed Plans for Monitoring Impacts of a Spring Rise on Interior Drainage (Doug Clemetson,)—Questions and responses









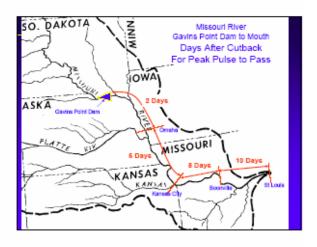




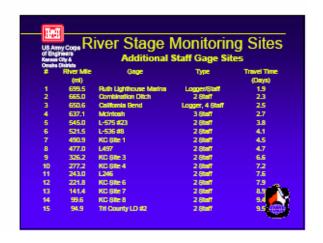


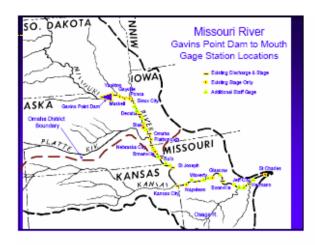




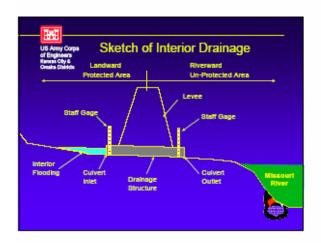


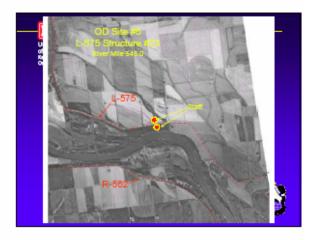










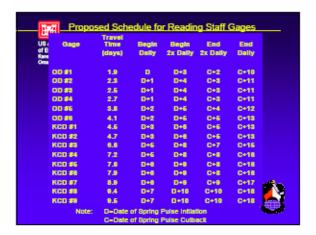








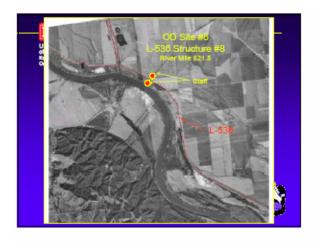






























	Rege	en oro	Type	Celw	Date	move	Debrit (B.164)	Prod Ste	Topy Total	Drange No.
+	Resta Parettels	011.1	6400	WINCE	9.8	House			60	279,480
- 2	Tarkin	805.6	Acti	U898	Q.3	Houle	1119.7	32	6.5	279,500
3	DAVID:	766.8	Acto	DISACE		Heliuste	1303.8		6.8	200,700
	Magazinti	715.6	8631	1/908		House	7128.5	10	1.0	201,400
	Poeca	200.0	ATE	USACK	- 8	Houte	1693.5	28	12	201 800
	Stone City	730.0	Arte	1998	Q. E	Moutes	steer	39	10.	214.800
T	Proteined Prompted	218.4	347	186		Deep			1.1	216,600
*	Party Lagrillancia Martina	800 S	Liconstant	DRACE		Helistike			1.0	210,100
- 4	Decision	891.8	6/10	1,000	0.5	House	10003	31	20	210,200
10	Continuos Date	805.8	23MT	USACE	. 10	Deep			2.5	200,000
111	Contonia Band	600.6	Longot & Stuff	USACE		Herodille			25	221,400
12	60an	845.2	6.11	USACE		House	811.0	- 18	2.6	221,500
111	Michigan	687.1	3.5M*	USACE	- 8	Door			3.0	331,690
140	Omaha	815.6	Pk/16	1998	Q. B	House.	946.2	3.0	30.	222,800
15	Pretonists	895.6	AUN	UNACE		Heliuthe	839.2	28	3.1	400,100
11	Michigan City	160.6	A/S/	1998	9.8	Houle	905.4	10	3.8	470,000
10	4,570,603	545.6	23847	USACE		Deey	inic i		2.1	410,200
111	Bosovini	595.0	860	STRACE		House	100.0	32	40	411,000
10	L. Soit All	821.5	2.7847	USACE		Deep	000.3		4.5	414,100
28	Eato .	408.1	6431	1000	0.5	House	Bit 2	11	4.6	404,000
411	AC Sect.	400.0	2.9847	USACE	. 8	Copy .			41	817.500
22	1.007	417.0	23945	USACE		Dany			4.7	418,200
11	St Joseph	648.2	66.31	1895	0.8	House	Per 2	11	4.5	(00,000)
24	Ramson City	305.1	Activ.	1935	9.8	House	200.4	30	8.5	404,100
25	AC SIN 3	228.2	21947	USACE	- 8	Deep			4.6	401,700
- 28	May other	228.7	Acto	USACE		House	800.2	11	6.5	405 200
37	Mayete	200.4	Auto	1935	9.8	House	940.3	30	10	401,300
28	BC No. 4	277.2	2364	UBACE		Dieg			12	405,000
29	1200	243.6	23947	USACE		2004			18	494 500
33	Charges.	218.8	PATE:	UNACE		Minter	100.1	25	7.6	407,000
111	EC No. E	227.6	2.5MT	UBACE		Cher			7.9	407 300
32	Remark.	707.1	600	1939	0.8	HOUSE.	585.4	- 11	8.2	500,700
10	Astronom City	145.0	Acto	USACE	8	House	500.1	28	9.9	500,000
38	RC Sp f	345.4	1365	USACE		- Cary			8.8	181, 400
35	BC Stail.	10.8	23945	USACE		DOM:			94	522,500
38	Hermann	17.8	N/10	1998	Q.E	House	01.0	22	9.6	822,800
30	TH COLUMN LD WZ	611.8	23947	USACE		Day			9.5	522 500
	SI Charles	28.2	ALC:	CHACK		House	415.7	28	30.3	534,000

Questions and Responses to Presentations

Interior Drainage

Q: You are going to study flow variations. How many of the four objectives have been answered based on regular flows? Can you answer any of these questions with existing flows?

A: Potentially. We are looking at shovelnose and trying to address questions through this program. Have not answered any of these questions using existing flows, but have begun to address these questions in different parts of the river. Do not have enough data to come up w/ firm conclusions.

Comment: You need to look at what is being done all along the river and make this available to us.

Q: Your photos—how much area is covered?

A: Photos GP to SL.

Q: Do they cover cultural sites?

A: No, primarily interior drainage

Q: How are data being collected and put into a data base?

A: Currently being collected and managed by MO Dept of Conservation.

Q: Will a data report be available each year?

A: Yes and it will be on the website. Large volumes of data are available and we are working on interpreting it. Water quality data is available from USGS. COE will also continue to monitor terms and plovers, with or without the Spring Rise. We will also look at natural rises due to rainfall events. Population assessment program is being implemented over time which does give us baselines for species. Also looks at other species that may be impacted by Spring Rise. This is all part of the data collection effort that has gone on for over a decade.

Report on Intergovernmental Discussions on Monitoring Impacts of a Spring Rise on Cultural Resources and Burial Sites (Larry Janis, COE)—Questions and responses (Presentation will be provided at a later date.)

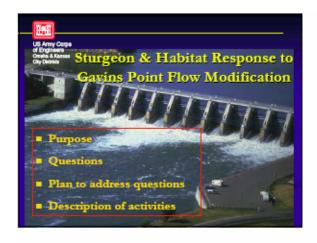
Q: What about looking at sites above Gavins Point? Much is happening above GP.

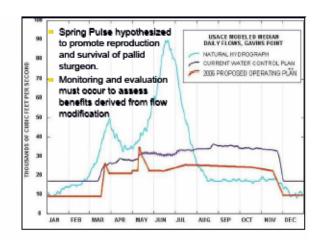
Q: How can this info be coupled with the big appropriation for the river and connected with wildlife and ESA?

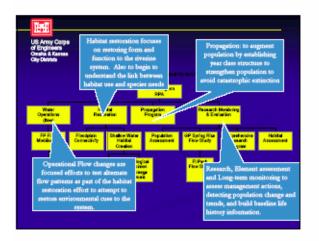
A: We have baseline monitoring on sites that we know about. One contractor has identified new sites. We have also contracted for inventories on unsurveyed sites. We have five year plan to look for new sites.

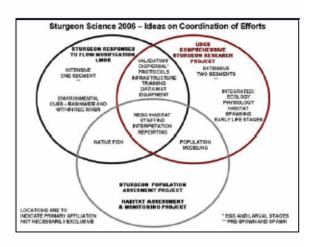
We (COE) need to look holistically at all of our approaches and make sure programs are linked. We have discussed internally how we communicate and link environmental activity to cultural resource sites. We are looking at how we can gain multiple benefits from linkage of multiple programs. We are open to broadening the scope of what we do to get multiple benefits from action on the Biological Opinion.

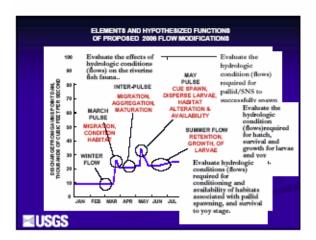
Report on Plans for Monitoring Impacts of a Spring Rise on the Pallid Sturgeon (Craig Flemming)—Questions and responses

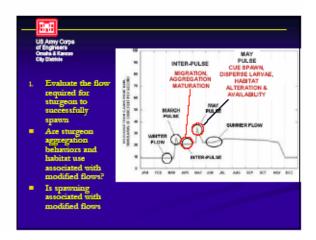


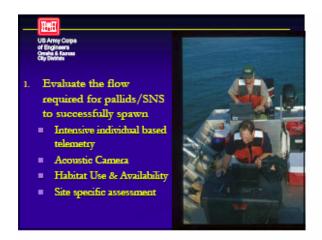


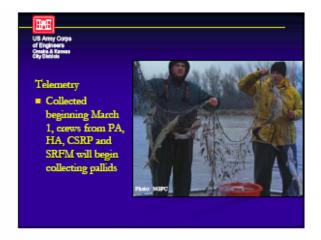








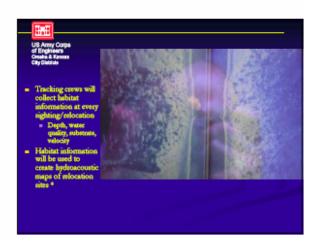


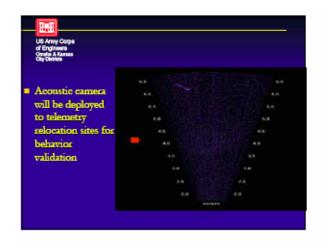








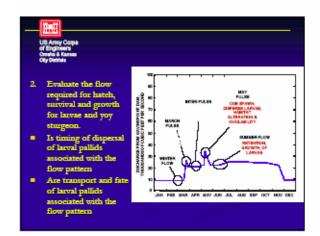




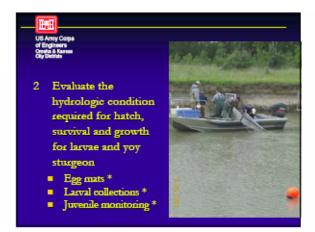


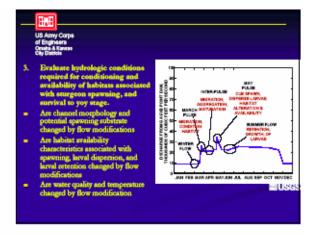




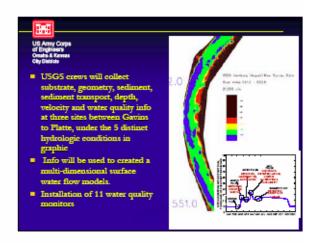




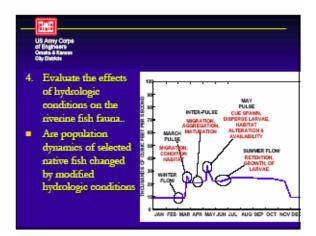




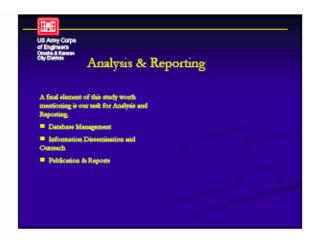




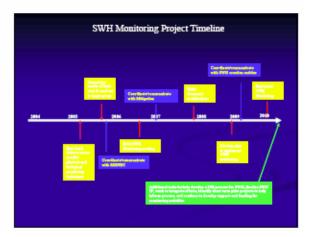












Q: I like Craig's hydrograph. Will you do water quality monitoring? A: Yes, we have 11 gauges.

Q: How many acres are associated with individual gates? What data do we have on potential impacts? What perspective do we have on size?

A: Currently not part of the monitoring plan, but we will do it.

Q: Erosion encroachments—are you studying cuts (notches) in the dikes that are eroding?

A: No, only around lakes—internal areas.

Q: Are you going to have private levee owners read gauges?

A: This year we are focusing on Federal levees. If private owners want to voluntarily do this, we can accept the data.

Q: Might local levee districts read gauges for free?

A: Next year if there are additional sites on private levees, we might look at having groups read them.

A: Reading will be done on a voluntary basis.

Comment: Might not be fair to have them read them for free—COE does not pay taxes on levee districts.

Comment: Whether or not we do a Spring Rise this year, you should still move forward in collecting baseline data. Yes, COE will do this.

APPENDIX A: MEETING ATTENDEES

- Alvin VanZee, MSAC
- ♦ Ann Bleed, Nebraska DNR
- ♦ Becky Latka, PM-AE Corps
- ♦ Bill Beacom, Nav-Con
- ♦ Bill Lay, Farmer
- ♦ Bob Bacon, CPR
- ♦ Bob Riehl, WAPA
- Bob Walters, Cheyenne River Sioux Tribe
- ♦ Brian Barels, NPPD
- ♦ Casey Kruse, USACE
- ◆ Chad Smith, American Rivers
- Charlie Scott, USFWS
- Cheryl VanZee, SCWDD
- ◆ Col. Bedey, USACE
- Craig Fleming, USACE
- ♦ Dan Fuhrman, Mo-Ark
- David Barfield, KS Div. of Water Resources
- ♦ David Busse, USACE
- David Johnson, Garrison Diversion
- ◆ David Pope, State of Kansas
- ♦ David Sieck, Iowa Corn Growers
- Dawnette Owens, Mni-Sose Coalition
- Don Bucky Pilcher, Sac and Fox Nation
- Don Jorgensen, MO River Technical Group
- ♦ Don Skip Meisner, SIMPCO
- Donna Peterson, Cheyenne River Sioux Tribe
- Doug Clemetson, USACE
- ◆ Doug Latka, USACE
- ◆ Garland Eberle, SD DENR
- ♦ Gene Zuerlein, NE Game & Parks
- ♦ George Cunningham, Sierra Club

- ♦ George Meyer, UPRR
- ♦ Greg Johnson, USACE
- ♦ Greg Mellema, USACE
- ♦ Harold Hadland, NPPD
- ♦ Heather McSharry, USFWS
- ♦ Howard Paul, MSAC
- ♦ Jack Erickson, SD GFP
- ♦ Jason Skold, TNC
- ◆ Jay Smith, Standing Rock Tribe
- ♦ Jeff Shafer, Nebraska DNR
- ♦ Jim Berkley, US EPA
- Jim Peterson, Missouri River Bank Stabilization
- ♦ Jim Redmond, Sierra Club
- ♦ Jody Farhat, USACE
- ♦ Joe Cothern, US EPA
- ♦ John Drew, Missouri DNR
- ♦ John Hey, Iowa DOT
- ♦ John LaRandeau, USACE
- ♦ John Seeronen, USACE
- ♦ Kathy Lafferty, CRST
- ♦ Kelly Crane, USACE
- ♦ Ken McDonald, Montana FWP
- ♦ Kevin Knepper, Big Soo Terminal
- ♦ Lanny Meng, Farmer
- ♦ Larry Janis, USACE
- Lee Kalpprodt, ND State Water Commission
- ♦ Lon Hachmeister, Battelle
- Lynn Muench, AWO
- Maggie Oldham, USACE
- Margot Zellman, USDOI
- Mark Drobish, USACE
- Mark Rath, SD DENR
- Mary Lee Johns, USACE
- Mary Roth, USACE
- Matt Krajewski, USACE
- Michael Eng, USIECR

- ♦ Michael Mac, USGS
- ♦ Mike Collins, US BOR
- ♦ Mike George, USACE
- ♦ Mike McGhee, Iowa DNR
- ♦ Mike Olson, USFWS
- ♦ Mike Wells, MC DNR
- Nick Stas, WAPA
- ♦ Patricia Gilbert, USACE
- ♦ Patrick Cassidy, KC BPU
- ♦ Phil Stump, SY SEO
- ◆ Rebecca Kidder, Cheyenne River Sioux Tribe
- Rick Wilson, USGS
- ♦ Rocky Plettner, NPPD
- Roger Patterson, Nebraska
- ♦ Rose Hargrave, USACE
- Roy McAlllister, USACE
- Steve Adams, KS Wildlife & Parks
- ♦ Steve Paulding, USACE
- Steve Shultz, University of Nebraska

- ◆ Sue Jennings, NPS
- ♦ Terry Fleck, FOLS
- ♦ Thomas O'Hara, USACE
- ♦ Tim Bryggman, MT DNRC
- ◆ Tim Mentz, Standing Rock Sioux Tribe
- ♦ Todd Sando, NDSWC
- ◆ Tom Bishop, USACE
- ♦ Tom Graves, Mid-West Electric
- ◆ Tom Huntley, Central Montana
- ♦ Tom Martin, PNNL
- ◆ Tom Schrempp, Water One
- ◆ Tony Provost, Omaha Tribe of Nebraska
- Vince Travnichek, MO Dept of Conservation
- ♦ Wayne Nelson-Stastny, USFWS
- ♦ Wayne Werkmeister, NPS-MNRR
- Wendy LeBeau, Cheyenne River Sioux Tribe

APPENDIX B: MEETING NOTICE AND AGENDA

Presentation of the Draft Results of the Situation Assessment on the Feasibility and Establishment of a Missouri River Recovery Implementation Committee and

Proposed Monitoring Plans for Spring Pulses on the Missouri River

Doubletree Hotel Omaha Downtown

1616 Dodge Street, Omaha, NE 68102 (402) 346-7600

> February 28th, 2006 8:30 AM -5:00 PM

Agenda

8:30 – 9:45	Welcome, Introductions, and Agenda Review
9:45 – 10:30	Presentation by CDR Associates of the Draft Results of the Situation Assessment on the Feasibility and Establishment of a Missouri River Recovery Implementation Committee
10:30 – 10:45	Break
10:45 – 12:15	Question and Answer Session on the Draft Situation Assessment and additional Suggestions from Meeting Participants
12:15 – 1:15	Lunch (on your own)
1:15 – 2:15	Report and Discussion of Plans for Monitoring Impacts of Spring Pulses on the Pallid Sturgeon
2:15 – 3:15	Report on Intergovernmental Discussions on Monitoring Impacts of Spring Pulses on Cultural Resources and Burial Grounds
3:15 – 3:30	Break
3:30 – 4:30	Report and Discussion of Proposed Plans for Monitoring Impacts of Spring Pulses on Interior Drainage
4:30 - 5:00	Next Steps and Follow-up on Monitoring and MRRIC